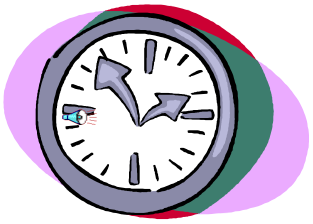
Alternative Dispute Resolution

Mediation

What Is Mediation?

- **One form of ADR used for all types of workplace disputes including Equal Employment Opportunity (EEO), grievance, appeal, and labor management (IAW CBA) issues**
- **Problem-solving collaborative process, vice an adversarial process, that brings parties personally involved in the dispute to the table**
- **Early opportunity for parties to gain a more complete picture and understanding of all issues involved in the conflict**
- **Parties ability to remain in control of options for resolution and use creativity when writing a settlement agreement**

Why Use Mediation?



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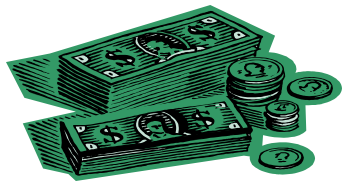
- **EEO complaint** **576 days**
- **Mediation** **1 day**
- **Processing an EEO Complaint** **$ 50,000 +**
- **Finding of discrimination** **$?**
  - **Compensatory damages, attorney's fees, back pay**



Why Use Mediation?

- **Besides time and $$$, unresolved conflict creates:**
  - **Low productivity**
  - **Poor performance**
  - **Inferior customer relations**
  - **Long-term damage to working relationships**
  - **Uncomfortable working environments_**
  - **Stress / illness**
  - **Poor morale**
  - **Absenteeism**
  - **Destructive situations**
  - **Loss of employees in essential positions**
  - **Rehiring / retraining costs**

Core Principles of DON Mediation Program

- **Neutrality**
- **Confidentiality**
- **Voluntariness**
- **Facilitative**
- **Self determination**
- **Enforceability of settlement agreement**

Participants' Commitment

- Preparation prior to the mediation
- Willing to commit the day
- Listen actively
- Use direct communication
- Think before reacting
- Separate the people from the problem
- Focus on the future
- Remain flexible…keep an open mind
- Work toward a joint solution
- Invent options for mutual gain

DON Mediator

- **Facilitates communication so parties can discover their underlying interests as opposed to their legal position**

- **Does not label or place blame on the parties**

- **Conducts the mediation in an impartial and even-handed manner and supports the parties' right to decide when and under what conditions they will reach an agreement or terminate the process**

- **Does not provide advice or offer a solution for the conflict**

- **Discloses all actual and potential conflicts of interest reasonably known**

DON Mediator
(continued)

- **Adheres to the rules of confidentiality Administrative Dispute Resolution Act of 1996**
  - **Exceptions to confidentiality are fraud, waste and abuse; criminal activity; or intent to do bodily harm**

- **Mediates only when the necessary level of competence is acquired that satisfies the reasonable expectations of the parties**

- **Asks *who*, *what*, *when*, *where* type questions of the parties when they're drafting their settlement agreement**

- **Completes DON's 4-level initial certification program and fulfills requirements for recertification by DON every 2 years**

SECNAVINST 5800.13a
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Civilian Human Resources Manual, Subchapter 773

- **The goal is to resolve disputes and conflicts at the earliest stage feasible, by the fastest method possible and at the lowest possible organization level.**
- **ADR techniques shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable.**
- **Every conflict and issue in controversy, regardless of the subject matter, is a potential candidate for ADR.**
- **All personnel v nd encourage the use of ADR to resolv d issues in controversy**

Contact

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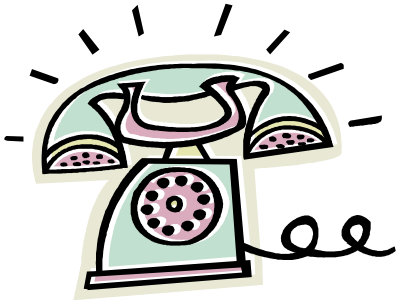

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